NAMIC
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

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April 11, 2025

Chairman Brendan Carr
Commissioner Geoffrey Starks
Commissioner Nathan Simington
Commissioner Anna M. Gomez
Federal Communications Commission
45 L St, NE
Washington, DC 20554

Re: Delete, Delete, Delete, GN Docket No. 25-133, DA 25-219

Dear Chairman Carr and Commissioners Starks, Simington, and Gomez:

On March 12, 2025, the Federal Communications Commission (Commission) asked for public comments on deregulatory initiatives that would facilitate and encourage American firms' investment in modernizing their networks, developing infrastructure, and offering innovative and advanced capabilities. The Communications Act directs the FCC to regularly review its rules to identify and eliminate those that are unnecessary considering current circumstances, recognizing that in addition to imposing unnecessary burdens, unnecessary rules may stand in the way of deployment, expansion, competition, and technological. The National Association of Mutual Insurance Companies (NAMIC) is submitting comments in response to that request.

NAMIC is the largest property/casualty insurance trade group with a diverse membership of more than 1,300 local, regional, and national member companies, including six of the top ten property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 61% of homeowners, 48% of automobile, and 25% of business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

NAMIC has collaborated with our member companies concerning their implementation of certain Commission Rules and we have heard numerous serious questions concerning the impact of the Rules on the operations of property casualty insurance companies.

The Public Notice refers to a series of Executive Orders that President Trump has issued calling on administrative agencies to unleash prosperity through deregulation and ensure that they are efficiently delivering great results for the American people. Specifically, on February 19, 2025, President Trump issued the Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative' order. That Executive Order directs all federal Agency heads to initiate a process to review all regulations subject to their jurisdiction and to identify regulations that impose significant costs upon private parties that are not outweighed by public benefits or impose undue burdens on small business and impede private enterprise and entrepreneurship.

Accordingly, NAMIC respectfully requests that the Commission consider the revocation of the following rules that each impose significant costs and impositions to our member insurers and their policyholders, impose undue burdens on small business, and potentially operate to disrupt auto and homeowner insurance coverage.

TCPA CONSENT ORDER

On February 16, 2024, the Commission released the TCPA Consent Order adopting various rules governing, and issuing clarifications relating to, the ability of consumers to revoke consent to receive unwanted robocalls and robotexts. In so doing, the Commission adopted section 64.1200(a)(10) of the rules, which requires in relevant part that "[i]f a called party uses any [reasonable] method to revoke consent, that consent is considered definitively revoked and the caller may not send additional robocalls and robotexts." Report And Order and Further Notice of Proposed Rulemaking, CG Docket No. 02-278.

Although suspended for one year by the Commission Order of April 7, 2025, CG Docket No. 02-278, the revised section 64.1200(a)(10) of the rule, as detailed below, imposes the significant costs and impositions to our member insurers and their policyholders, as well as undue burdens on small business.

The Five-Minute Requirement

The five-minute requirement in the revised section 64.1200(a)(10) of the rule is not new to the Rules but was specified in the Commission's 2012 SoundBite Communications Declaratory Ruling (the Declaration) and cited in the Rules. Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising, § 64.1200 (a) (12) Delivery restrictions of the Rules states:

> *If the confirmation text is sent within five minutes of receipt, it will be presumed to fall within the consumer's prior express consent. If it takes longer, however, the sender will have to make a showing that such delay was reasonable. To the extent that the text recipient has consented to several categories of text messages from the text sender, the confirmation message may request clarification as to whether the revocation request was meant to encompass all such messages; the sender must cease all further texts for which consent is required absent further clarification that the recipient wishes to continue to receive certain text messages.*

Commission Order of April 7, 2025, CG Docket No. 02-278 acknowledges that the record now contains more evidence that callers require additional time to ensure that they can process revocation requests sent in response to one business unit's call or text to ensure that all calls and texts from that business that require consent stop upon receipt of a revocation request. While that suspension is welcome and appropriate, the 2024 TCPA Consent Order leaves significant operational questions unanswered.

Question 1: The Rules allow for, but do not require that a confirmation text – or any other confirmation of the revocation request - be sent to the entity requesting the revocation. Does the Commission require that any confirmation communication be sent, and if so, is that limited to a confirmation text, or are other forms of confirmation communications required, allowed and/or limited or restricted?

Question 2; Section 64.1200 (a) (10) Delivery restrictions of the Rules provide If a called party uses any such method to revoke consent, that consent is considered definitively revoked and the caller may not send additional robocalls and robotexts. For property casualty insurers, the called party is most often a current policyholder and the method to revoke could be interpreted include that policyholder's intent to question, modify or terminate an insurance policy, which the insurer is required under State insurance law and regulation to act upon, often in a specified manner and timeframe. Commission limitation of policyholder communications could raise conflicts with long-established and highly prescriptive state insurance code requirements.

o If the caller communication may possibly involve insurance policy matters in addition to consent to receive robocalls/robotexts, most state insurance laws and regulations require insurers to respond in various ways.

o Does the Commission consider the insurer bound by any of the provisions of the Rules with respect to such policy matter communications?

The 10 Day Requirement

In the Rules, Subpart L—Restrictions on Telemarketing, Telephone Solicitation, and Facsimile Advertising, § 64.1200 (10)(d) (3) Recording, disclosure of do-not-call requests, provides:

If a person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under paragraphs (a)(3)(ii) through (v) of this section or any call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the request is made. Persons or entities making such calls (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed ten (10) business days from the receipt of such request.

Our understanding is that the FCC defines a "residential subscriber" as a subscriber to a telephone exchange service that is not a business subscriber, and that this definition can include cell phone users. The rule requires “a request from a residential telephone subscriber not to receive calls.” The company must place the subscriber’s name – if provided - and telephone number from which the request is made on a do-not-call lit “at the time” the request is made, not to exceed 10 days from receipt of request.

Question 3: If an insurer has other telephone numbers – work or home phone numbers, for example - in their insurance records for the number requesting the revocation – do the rules require the insurer to locate all other associated numbers and place all of those numbers on the do-not-call list? If so, does the 10-day requirement apply to the other numbers as well?

The rules require that the entity must “honor” the revocation request within 10 days.

Question 4: Can robocalls and robotexts, as well as other communications with the requesting party be sent during the ensuing 10 days? Must the entity stop robocalls and robotexts immediately upon receipt of the revocation or do they have 10 days? If they have 10 days in which communication is permitted, may any type of confirmation of receipt of the request be made? May the requesting party be asked to reconsider the request during the 10 days? Does the 10 days apply only to texts – robo or otherwise?

With respect to the TCPA Consent Order, the 2012 Ruling stated that the Commission will review questions on a case-by-case basis, and we believe these are reasonable questions. In the event that the Commission is unable to provide such guidance, NAMIC respectfully requests that the Rules be identified under the Executive Order as regulations that impose significant costs upon private parties that are not outweighed by public benefits or impose undue burdens on small business and impede private enterprise and entrepreneurship.

Specifically, NAMIC request that the Commission provide guidance on the Rules that make clear that:

(a) a confirmation notice or receipt of a revocation is not required under 47 U.S. Code § 227 - Restrictions on use of telephone equipment,

(b) a confirmation notice or receipt of revocation is limited to further robocalls/robotexts, does not have any impact on the underlying insurance contracts, and that communication – including robocalls and robotexts that concern the existing policy without solicitation or marketing are not limited by 47 U.S. Code § 227, and,

(c) that the five minute and ten-day restrictions in the 2024 rule do not limit or prevent ongoing communications between an insurer and a policyholder regarding the insurance policy or related services.

LEAD GENERATION

On January 26, 2024, the Commission adopted a final rule that mandated that consumer can only grant one-to-one consent to a particular seller individually. Specifically, "texters and callers must obtain a consumer's prior express written consent from a single seller at a time on the comparison-shopping websites that often are the source of lead generation, thus closing the lead generator loophole." The report also emphasizes that a consumer's consent must be "logically and topically related" to the website where the consent is provided. Targeting and Eliminating Unlawful Text Messages, Implementation of the Telephone Consumer Protection Act of 1991, Advanced Methods

to Target and Eliminate Unlawful Robocalls, 47 CFR Parts 0 and 64, CG Docket Nos. 21-402, 02-278, 17-59; FCC 23-107; FR ID 194243.

As shown below, this rule imposes the significant costs and impositions to our member insurers and their policyholders, as well as undue burdens on small business, and disruptions auto and homeowner insurance coverage that the Executive Orders direct to be reviewed and revised.

The rule will not truly impact the problems – robocalling. Until lead buyers stop purchasing non-compliant leads there will be incentives that lead to bad practices. It would be more beneficial if all lead generators required increased digital documentation of consumer-provided consent-to-call for leads processed through its systems. This would make it much more difficult for non-compliant actors to sell to their agents and reduce the market for non-compliant leads.

Consumers may find comparison shopping websites helpful; how can we ensure that they can consent to obtain further information from the site without receiving numerous calls and texts from unrelated companies?

The rules could negatively impact consumer choice and competition and would not even address the root cause of most of today's nuisance calls that harass consumers, which nuisance calls are made by scofflaws without any consent at all. The way for the Commission to stop the scourge of illegal calls is to continue putting in place its STIR/SHAKEN rules so that calls can be traced, and then vigorously pursuing enforcement actions against those who make illegal calls. The STIR/SHAKEN framework is an industry-standard caller ID authentication technology, a set of technical standards and protocols that allow for the authentication and verification of caller ID information for calls carried over Internet Protocol networks.

With respect to the extent of the problem, in the Notice proposing the Rule, the Commission offers a single example of a list of companies on an insurance website to which consent was sought that included other entities that did not appear to be related to insurance. We sought further information on this subject and the information vendors we heard from do not utilize this approach, underscoring our suspicion that this is not a common occurrence. One vendor also commented that they prohibit their third-party lead sources from doing so. We heard that leads must be generated from workflows that are clearly related to insurance. Additionally, another noted they do not market unrelated products to consumers and do not cross sell products without prior consumer permission for that product. This does not appear to be a problem for the policyholders and applicants for policies for NAMIC member companies.

A simpler and more workable rule could be to require that prior express written consent for a call or text may be to no more than ten named entities. The customer can determine whether the ten listed companies are logically and topically associated with the customer's interests and ten entities will be easy for the customer to read and understand.

Regulatory imposition on consumer choice, particularly in the competitive insurance industry, should require specific and evidentiary determinations by the Commission before limited consumer choice. We are most supportive of action that can limit or eliminate nuisance calls that harass consumers but suggest that continued efforts by the Commission to fully implement and operate the STIR/SHAKEN framework is a more practical solution. Should that framework prove to be insufficient, and evidence shows abuses exist in lead generation to consent requirements, only then the solution we offer above could be considered.

We understand that the Commission issued an order on January 15, 2025, postponing the effective date of the rule, and that the Eleventh Circuit Court of Appeals has issued a ruling finding that the rule is invalid. While the likelihood of the reinstatement of the Rule or some version of it is minimal currently, in the interest of our member companies, NAMIC believes it important to make the Commission aware of the issue.

CONCLUSION

For the reasons detailed above, pursuant to the Commission's request for its rules to identify and eliminate those that are unnecessary considering current circumstances, recognizing that in addition. to imposing unnecessary burdens, unnecessary rules may stand in the way of deployment, expansion, competition, and technological improvement, NAMIC respectfully proposes that the two rules be revoked or substantially revised to remove or reduce the significant costs upon private parties that are not outweighed by public benefits and impose undue burdens on small business and impede private enterprise and entrepreneurship.

If you have any questions or require further information, please contact me at tkarol@namic.org. Thank you for your time and consideration.

Thomas J. Karol

General Counsel – Federal
National Association of Mutual Insurance Companies